IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 1357 OF 1995

DCM Shriram Consolidated Ltd. ... Plaintiff.

V/s.

M/s. J.K. Shah & Co. & Ors. ... Defendants.

Mr. N.V. Moye for the Plaintiff.
None for the Defendant.

CORAM : DR. D.Y. CHANDRACHUD,J.

3RD JULY 2007.

P.C. :-

. The suit has been instituted for the recovery from the Defendants of dues in respect of goods sold, supplied and delivered.

2. The First Defendant placed an order for the supply of textile material through the Second Defendant who was to act as a collecting agent, with the Plaintiff. Goods of an aggregate value of Rs.82,311/- were supplied under 5 invoices of dated 31st December 1991. The goods were despatched from Delhi through a transporter. The Lorry receipts were delivered by the Regional Office of the Plaintiffs to the Defendants. The Defendants took delivery of the consignment. The

Second Defendant issued a cheque dated 29th February 1992 in favour of the Plaintiffs' Unit which was however dishonoured on presentation.

3. The Defendants have failed to enter appearance despite service of the writ of summons. The Plaintiffs have filed an affidavit in lieu of examination in chief of a constituted attorney as its witness. The Plaintiffs' witness has deposed to the material averments contained in the plaint. A compilation of the documentary material has also been filed on the basis of which the claim has been duly established. The Defendants have been failed to enter appearance. The evidence of the Plaintiff has remained uncontroverted.

4. In the circumstances, the suit shall have to be decreed and is accordingly decreed in terms of prayer clauses (a) and (b) subject to the modification that the Plaintiff would be entitled to interest at the rate of 12% per annum from the date of the institution of the suit until payment or realisation.

5. Refund of Court fees if any, as per rules.